

Hon. Ronald Reinstein, Ret.
Chair, Supreme Court Commission
on Victims in the Courts (COVIC)
1501 W. Washington, Phoenix, AZ 85007
602-452-3138

**IN THE SUPREME COURT
OF THE STATE OF ARIZONA**

In the Matter of:

PETITION TO ADD RULE 57.1 AND)	Supreme Court No. R-08-0027
RULE 57.2, ARIZONA RULES)	COMMENT ON PETITION
<u>CIVIL PROCEDURE</u>)	

On behalf of the Supreme Court's Commission on Victims in the Courts, Chair, Judge Ron Reinstein respectfully submits this comment on the above-referenced petition to add Rules 57.1 and 57.2, to the Arizona Rules of Civil Procedure.

The Commission reviewed the petition's potential impact on crime victims at its quarterly meeting on May 8, 2009. The Commission voted unanimously to support the amendments to Rule 57.2 as proposed. The Commission also voted unanimously to support the proposed changes to Rule 57.1 with the proviso that language be added to 57.1(G)(4) to allow the criminal court to enter a determination of a victim's factual innocence without a hearing or submission of proof at the time of the defendant's change of plea or guilty verdict. The Commission's suggested new language would read as follows:

Rule 57.1. Declaration of Factual Innocence

* * *

G. Hearing and Determination.

1. The Court may hold a hearing to determine the Petitioner's factual innocence.
2. If the Court holds a hearing, the victim of the offense identified in a judgment of guilt, or committed by the person arrested for, or cited or charged with, a criminal offense, has a right to be present and to be heard at the hearing.
3. If the Court does not hold a hearing, an order entered pursuant to this rule may be entered upon submission of proof by affidavit.
4. Upon a determination of the defendant's guilt in the criminal matter, the criminal court may contemporaneously enter a determination of a victim's factual innocence without a hearing or submission of proof by affidavit. A determination of the defendant's guilt is deemed entered upon the defendant's change of plea or guilty verdict.

RESPECTFULLY SUBMITTED this 20th day of May, 2009.

By Carol Mitchell (staff) for
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Commission on Victims in the Courts
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Copies of the foregoing
have been electronically filed
this 20th day of May, 2009 with:

Arizona Supreme Court